

Judge Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN RICHARD FARRELL,

Defendant.

NO. CR15-029RAJ

**JOINT MOTION TO RESET  
BRIEFING SCHEDULE FOR  
MOTION TO COMPEL**

The United States of America, by and through Annette L. Hayes, United States Attorney for the Western District of Washington, and Thomas M. Woods, Assistant United States Attorney for said District, and Defendant, Brian Farrell, by and through his counsel, Nancy Tenney, hereby move the Court as follows:

On November 13, 2015, the Court set a discovery cutoff in this matter of December 4, 2011, as well as a briefing schedule for any motion to compel that might be filed.

The parties later submitted a stipulated motion requesting that the discovery cutoff and briefing deadlines be reset by approximately one week. In the motion, the parties advised the Court that the government had had numerous calls with multiple counsel from two separate components of the Department of Justice, who in turn, had been

1 gathering responsive documents from the FBI and outside the Department of Justice. The  
2 Court granted the parties' motion and reset the deadlines.

3 On December 11, 2015, the government produced over 200 pages of documents to  
4 the defense, including the central contract at issue, along with two affidavits, and a nine-  
5 page disclosure letter. In the letter, the government noted, among other things, three  
6 outstanding items.

7 First, the government noted that the Department of Defense ("DOD") had shared  
8 certain documents with the prosecution team on the condition that DOD complete its  
9 mandated internal review of the documents to ensure that no redactions were necessary.  
10 The government described aspects of the documents in the disclosure letter, but were  
11 unable to produce the actual documents, given the ongoing review process. The  
12 government is advised that the Department of Defense review should be complete by  
13 December 18, 2015.

14 Second, the government noted that it was reviewing archived emails for any  
15 responsive documents. The government disclosed in its letter portions of emails that it  
16 had recovered to date. However, in light of the large volume of emails, a complete  
17 review of the archived emails is not expected to be completed until December 31.

18 Third, the government noted that it was possible that some responsive emails  
19 would be subject to the attorney-client or work product privileges. If that is the case, the  
20 government will be producing to the defense a privilege log of such documents.

21 On December 16, 2015, the defense wrote the government, raising a few issues,  
22 including about the foregoing three issues. The government is preparing a response, and  
23 will be conferring directly with the defense. Although it is possible that a motion to  
24 compel will still be filed, the scope of issues has considerably narrowed since the status  
25 conference in this case, and likely will further narrow in the next two weeks. Thus, the  
26 parties respectfully suggest that the Court reset the motion to compel deadline until  
27 January 7. The government's response would be due January 14, and any reply by  
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1 January 19. This revised schedule would not affect either the motions deadline or the  
2 trial date in this matter.

3 DATED this 17<sup>th</sup> day of December, 2015.

4  
5 Respectfully submitted,

6 ANNETTE L. HAYES  
7 United States Attorney

8 /s/ Thomas M. Woods

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16 /s/ Nancy Tenney

17 NANCY TENNEY  
18 Attorney for Brian Farrell  
19 Per email authorization  
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**CERTIFICATE OF SERVICE**

I hereby certify that on December 17, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s). I hereby certify that I have served the attorney(s) of record for the defendant(s) that are non CM/ECF participants via telefax.

/s/ Salee Porter  
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